

UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COUNTRY MUTUAL INSURANCE
COMPANY, an Illinois corporation
individually and as successor in interest to
HOLYOKE MUTUAL INSURANCE
COMPANY IN SALEM,

Plaintiffs,

v.

EVERGREEN LANDING, LLC,

Defendant.

NO. 3:20-cv-05337-TLF

LINDA L. FOREMAN DECLARATION
IN SUPPORT OF EVERGREEN
LANDING LLC'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND OPPOSITION TO COUNTRY
MUTUAL MOTION FOR SUMMARY
JUDGMENT

1. I, Linda L. Foreman, make the following declaration certified to be true under penalty of perjury under 28 U.S. Code § 1746:

2. I am competent to testify, and this declaration is based on direct personal knowledge. I am the attorney of record representing Evergreen Landing, LLC.

3. Trial in the *Casto & Jacobs* Lawsuit is scheduled for a jury trial in the Thurston County Superior Court on March 15, 2021

3. Following is true and correct copy of Defendant's Interrogatory No. 10 and Ms. Casto's response.

1 INTERROGATORY NO. 10: State each item of special damages you are claiming and the
2 amount thereof.

3 ANSWER:

4 Medical specials include: My damages are ongoing. I will supplement this answer prior to
5 discover cut-off which is yet to be scheduled by the Court.

6 Wage loss: My damages are ongoing. I will supplement this answer prior to discovery cut-
7 off which is yet to be scheduled by the Court.

8 Damaged personal property: ~\$19,000 known at this time (new mattress, new couch,
9 dresser and side table, shoes, clothes, computer desk, bike, books, bookcase, misc. other items).
10 My damages are ongoing. I will supplement this answer prior to discovery cut-off which is yet to
11 be scheduled by the Court.

12 4. I declare true and correct copies of the following are attached:

13 a) Deposition Excerpt of Tiffany Casto, pages 111-113; and

14 b) Exhibit 11 to her deposition being emails

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed this 24th day of July 2020 at Snohomish, Washington.

17
18 Linda L. Foreman
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EXHIBIT A

**Deposition Excerpt of Tiffany
Casto, pages 111-113**

1 A There was two different leaks in the kitchen. One was
2 from the dishwasher, and yes, there was water on the floor. And
3 that's when we had to get a new dishwasher.

4 Q Uh-huh.

5 A Even upon getting a new dishwasher, mold grew
6 extensively inside the new dishwasher.

7 The second one was that of the sink in the kitchen, and
8 that had left water in the sink under the cupboards.

9 Q Okay. And was the leak in the kitchen repaired?

10 A The -- what do you mean by that?

11 Q Did the leak stop after someone came in and fixed it?

12 A It happened a few times more but very minimal.

13 Q Okay.

14 A But the -- yeah.

15 Q And you said the dishwasher was replaced?

16 A The dishwasher replaced, uh-huh.

17 Q But the flooring in the kitchen wasn't removed?

18 A Correct.

19 Q You would have liked to have seen that removed?

20 A Yes, because there was puddle on the floor.

21 Q Okay. You weren't able to adequately dry the puddle?

22 A I did dry it, uh-huh, but it could seep into cracks.

23 Q And then this last one, it -- it looks like it's
24 related to a leak in the kitchen, and then you referenced
25 puddles in the bathroom?

1 A Uh-huh.

2 Q What happened around that leak? Did it come from the
3 kitchen and then --

4 A Nope. The guest bathroom, like I said, was from the
5 upstairs unit bathtub overflowing and it came through the walls.

6 Q Okay. So that wasn't related to the kitchen?

7 A That was not related to the kitchen.

8 Q Thank you.

9 A Uh-huh.

10 Q So we've just been talking about leaks.

11 Are those all your complaints about leaks that you
12 make?

13 A About the leaks that happened that I can remember, yes.

14 Q Okay. And so I'd like to change to a slightly related
15 issue which is complaints about mold.

16 A Okay.

17 Q All right. So when did you complain about mold in the
18 unit?

19 A I can't tell you the date, but I know it was directly
20 after the leak in the upstairs unit from the master bathroom.

21 Q Okay. And we talked about this briefly before, and
22 your recollection was that someone came and looked at it and
23 gave you something to clean it with?

24 A Yes, an antifungal, I believe.

25 Q Okay. Was that, like, a spray?

1 A Yeah.

2 Q Okay. Do you remember the brand or anything like that?

3 A I don't.

4 Q That's fine. So you said that you tried that spray?

5 A Uh-huh.

6 Q Did you spray it over the whole affected area?

7 A Any area that I saw mold, which is what he advised me
8 to do.

9 Q Right. So that would be half the ceiling?

10 A It wasn't half the ceiling at that point.

11 Q Okay.

12 A It grew over time.

13 Q Tell me -- tell me about the mold at this point.

14 A Yeah. It was just in -- like, I don't know how to say
15 the size, but it -- maybe, like, the size of this chair seat,
16 whatever width dimensions that is.

17 Q Do we think that's, like, two foot by two foot?
18 Anyone?

19 A Yes.

20 Q We're estimating it would be about a two-foot square.

21 A Okay.

22 Q Was that on the ceiling?

23 A Yes, that was just on the ceiling.

24 Q And did it have any particular color, the mold?

25 A Black, dark brown, black.

EXHIBIT B

Ex. 11 - Tiffany Casto 063020

Re: Maintenance issues

Tiffany C

Tue 7/12/2016 9:59 AM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

That'll be great! Thanks! I will let Jake know, as I will be at work.

From: Jackson Rentals <jacksonrentalslacey@gmail.com>**Sent:** Tuesday, July 12, 2016 9:58:58 AM**To:** Tiffany C**Subject:** Re: Maintenance issues

Hi Tiffany,

I can have Nick come tomorrow morning if that works for you. How does tomorrow at 9:00 work?

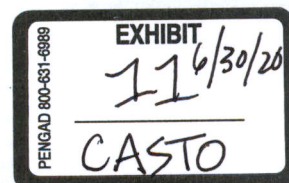
Sincerely,

Deanna Denny
ManagerJackson Rental Properties
PO Box 3506
Lacey, WA 98509jacksonrentals.vsites.com

On Tue, Jul 12, 2016 at 9:56 AM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:
Hello,

I am writing to inform you of some issues in our condo. First, we e-mailed about our oven about 4 months ago and had someone come look at it and he explained he would have someone call us to fix the issue with the overwhelming smoke. No one ever called. It has not been fixed. Our refrigerator leaks water all over our food and leaves a puddle on the bottom shelf. I have had someone take a look at the fridge as well, but they did not see this issue. The most important issue is in the master bedroom bathroom. There appears to be black mold growing and spreading on the ceiling above the shower. I have tried to clean it and to no avail. The mold has been spreading and getting worse for the last week. Please let me know when someone can come take a look at these issues. Generally, Mon-Fri before 3 are good for us.

Thank you,

Tiffany Casto
Evergreen Landing 1419 #102

Finishing our ceiling?

Tiffany C

Wed 8/3/2016 5:52 PM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

Hi there,

I am writing to you because I was supposed to get a phone call from the maintenance man on Monday so he could finish the ceiling in our master bathroom. It is incomplete still (Today is Wednesday) and we have not heard from him or anyone. Please let me know when we can get someone out to our condo to fix this.

Thank you,

Tiffany

Evergreen Landing

1419 #102

Re: Immediate maintenance needed!!

Tiffany C

Wed 2/15/2017 7:40 AM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

Hi Deanna,

That should work. Please call Jake to confirm as he will be the one who is home.

Thanks,

Tiffany

From: Jackson Rentals <jacksonrentalslacey@gmail.com>**Sent:** Tuesday, February 14, 2017 10:39:37 AM**To:** Tiffany C**Subject:** Re: Immediate maintenance needed!!

Hi Tiffany,

I can have maintenance over tomorrow afternoon if that works for you. I am thinking around 2:00.

Sincerely,

Deanna Denny
Manager

Jackson Rental Properties
PO Box 3506
Lacey, WA 98509

jacksonrentals.vsites.com

On Tue, Feb 14, 2017 at 10:32 AM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:
Hello,

I'm writing to you because we have some MAJOR repairs that need to be done at our condo. We have previously called on several of them, and someone came out and "fixed" them, but they are still here. One is a major mold issue in the master bathroom ceiling, the next is a leaky fridge and the next is a leaky sink in the kitchen. I've attached two photos for your review. As you can see in the first photo there is a huge chunk that was previously cut out and "repaired", but the mold is growing around it. The second picture, is after only a week of the sink leaking. We have been cleaning weekly, but fear there is mold in there. These need to be fixed immediately. We are living in a unsafe environment and have not had proper maintenance to take care of it. We have been dealing with these SAME issues since we moved in, over a year ago! Please let me know when you are available. Thank you.

Tiffany
Evergreen Park Landing #102

3/14/2019

Mail - Tiffany C - Outlook

Re: Mold problem

Tiffany C

Thu 5/11/2017 1:31 PM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

Hello!

Yes, you may give Steve Jake's number: 360.489.5220. He has more flexibility during the day. I will let him know tonight that Steve may be calling. Thanks so much!

Tiffany :)

From: Jackson Rentals <jacksonrentalslacey@gmail.com>**Sent:** Thursday, May 11, 2017 7:53:25 AM**To:** Tiffany C**Subject:** Re: Mold problem

Hi Tiffany,

I am so sorry for the delay in my reply. We are without a maintenance guy now. I have found someone to fill in temporarily until we find another maintenance technician. Can I give your name and number to our temp maintenance tech for him to call and schedule with you? His name is Steve.

Sincerely,

Deanna Denny

Sent from my iPhone

On May 5, 2017, at 9:54 AM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:

Hello!

I am writing, again, to address the mold that is in the master bathroom. There was initially a leak in the upstairs unit that caused mold to grow on the ceiling above the shower in our unit and we had a chunk of the ceiling removed and replaced. The mold started growing back and a maintenance guy came out and said their was no moisture content and to just clean the mold. However, I believe this to be untrue as the mold keeps growing back around the area where there was initially a leak. We need someone to take care of this issue, asap.

Thank you,

Tiffany

1419 Evergreen Park DR #102

This was
the reason the
mold
started
in the
first
place!

Re: Mold

Tiffany C

Thu 6/15/2017 3:22 PM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

Hi, Deanna!

Thanks for checking in! I'm sorry for the delayed response; Jake just got home last night and we haven't had a moment to chat about his schedule. I will check with him tonight and let you know tomorrow, about next week. Have a good day!

Thanks!

Tiffany

From: Jackson Rentals <jacksonrentalslacey@gmail.com>

Sent: Thursday, June 15, 2017 9:56:58 AM

To: Tiffany C

Subject: Re: Mold

Hi Tiffany,

Just checking in. I hadn't heard from you for getting maintenance in. Can you tell me if sometime next week will work? Unfortunately, maintenance schedule is full for this week now. Thanks!

Sincerely,

Deanna Denny
Manager

Jackson Rental Properties
PO Box 3506
Lacey, WA 98509

jacksonrentals.vsites.com

On Tue, Jun 6, 2017 at 10:22 AM, Jackson Rentals <jacksonrentalslacey@gmail.com> wrote:
Sure, what day and time works for you?

Sincerely,

Deanna Denny
Manager

Jackson Rental Properties
PO Box 3506
Lacey, WA 98509

jacksonrentals.vsites.com

On Tue, Jun 6, 2017 at 10:10 AM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:
Hi Deanna,

Unfortunately, Jake will not be home today. May we plan for the end of next week? Thanks!

Tiffany :)

From: Jackson Rentals <jacksonrentalslacey@gmail.com>

Sent: Monday, June 5, 2017 3:36:42 PM

To: Tiffany C

Subject: Re: Mold

That works, thanks!

Sincerely,

Deanna Denny
Manager

Jackson Rental Properties
PO Box 3506
Lacey, WA 98509

jacksonrentals.vsites.com

On Mon, Jun 5, 2017 at 3:25 PM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:
Hi Deanna,

Unfortunately, I am at work tomorrow, so I will check with Jake and see if he will be home. If not, we'll have to wait until next week, as he will be out of town coming Wednesday. I'll keep you posted.

Thanks,

Tiffany

From: Jackson Rentals <jacksonrentalslacey@gmail.com>

Sent: Monday, June 5, 2017 10:43:26 AM

To: Tiffany C

Subject: Re: Mold

Hi Tiffany,

We got a new maintenance guy that is very knowledgeable that I would like to send out tomorrow if possible. He will be out at the apartments tomorrow afternoon for some other work orders. Can he come by around either 2:00 or 3:30?

Sincerely,

It was
Always a maintenance guy
who works for Jackson
Rental that came &
inspected things!

Deanna Denny
Manager

Jackson Rental Properties
PO Box 3506
Lacey, WA 98509

jacksonrentals.vsites.com

On Mon, Jun 5, 2017 at 10:11 AM, Tiffany C <CreationsbyTiffany@hotmail.com> wrote:
Hi Deanna,

I am writing to let you know the mold spray that Steve gave us was unsuccessful in killing the mold on the ceiling in the master bathroom. He asked that I E-mail you and let you know, so you can let me know what the next plan of action will be. Thanks so much!

Tiffany
1419 Evergreen Park Dr # 102

Re: Big Maintenance Repairs

Tiffany C

Fri 11/16/2018 3:04 PM

To: Jackson Rentals <jacksonrentalslacey@gmail.com>

Hello, again!

I wanted to make sure I attached the original message, so you know what I am referring to.

First, thank you for getting the maintenance guy out to look at the problems. I appreciate that.

Secondly, Jake mentioned that the maintenance guy said the reason for the mold on my ceiling and walls in the master bathroom is because I don't run the fan. I need to make sure that is corrected. The mold did not appear on the ceiling and walls until after the leak from the upstairs apartment, and I have always ran the fan, well beyond after I am out of the shower. I believe there is a bigger problem and I do not think the solution is to caulk the shower crack. I am concerned that the mold has been causing some health problems and I don't want to cover up the problem with a band-aid, only for it to get worse. This could potentially be a serious health hazard and it needs to be properly addressed.

Please let me know if there is something I need to do to help further this along.

Thanks,

Tiffany

From: Tiffany C**Sent:** Friday, November 16, 2018 11:17:37 AM**To:** Jackson Rentals**Subject:** Big Maintenance Repairs

Hello!

I am writing to you with a couple of maintenance concerns.

1) The master bathroom had a leak from upstairs a couple of years ago and the ceiling was partially repaired, however, mold kept growing around the repaired patch. When the former maintenance guy came and looked at it, he said there was no moisture and that it was just mildew. However, it has since come back, along with it spreading more and there is now a crack in the tub wall, where the leak would have spilled, filled with mold. I would like someone to come take a look at that, as I believe there may need to be some major repairs.

2) Jake walked into the spare bathroom last night and noticed a huge puddle of water in front of the sink, coming from under the cabinet, not under the sink. Then, there was an even bigger puddle near the shower, coming from the wall, as if the next apartment drained something and it leaked into that bathroom. Then, in the master bathroom, there was a small puddle coming from the wall connecting the two bathrooms and the other apartment. I believe there may be a major leak somewhere that needs to be addressed.

3/14/2019

Mail - Tiffany C - Outlook

3) The blinds, over the sliding door in our apartment, have looked as if they were going to fall from the wall for a couple of years now, as the screw caused the hole in the wall to be bigger than needed and so it slowly is slipping. I am concerned the entire thing may fall. I would like that to be checked out. Also, one of the blinds (I think that's what it is called) broke several months ago and we have tried to fix it, to no avail. Are we able to get new blinds, or a new blind? Please let me know.

The first two things are obviously a much bigger concern, but all three would being checked would be greatly appreciated.

Please call Jake at 360.489.5220 for today (Friday 11-16-18) before 2:30 or Saturday or Sunday you may call me at 360.556.6445.

Thanks!

Tiffany
1419 Evergreen Park Dr SW #102



Virus-free. www.avast.com